

Network Enhanced Telecom, LLP (“NetworkIP”)
Appeal of USAC Contributor Audit and Request for Stay or Abeyance
(filed June 29, 2009 - DA 09-1778)

- Audit Conclusions were erroneous on the facts.
 - NetworkIP’s platform service offering is not prepaid card service.
 - Not a finished retail product. Makes available a virtual switching platform and software applications and resells long distance minutes for NetworkIP’s *carrier customers* to provision their *own* prepaid card offerings.
 - None of the characteristics of “prepaid card” per the Instructions.
 - Not prepaid (post-paid).
 - NetworkIP’s carrier customers assign and control PINs, rates, set price and value of cards, manage recharges, customer service, etc. (NetworkIP does not.)
 - NetworkIP reasonably expected that its customers were resellers.
 - Obtained reseller certifications from virtually all platform customers. Does not question obligation to obtain reseller certifications.
 - NetworkIP’s certifications generally required customers to advise of any change in status.
 - Section 64.1195(h) one-time registration check is irrelevant to USF.
- If NetworkIP’s platform revenue is deemed prepaid card revenue, requiring reporting as end-user revenue and at “face value” would:
 - Require NetworkIP to contribute on more than its “projected collected” revenue.
 - Invite double-payment problems.
 - Exceed the scope of the FCC’s authority to assess USF contributions.
 - Result in inequitable and discriminatory contribution obligations.
 - Give precedence to Instructions that have never been published in the Federal Register over valid FCC rules and orders.
- Petition should be resolved expeditiously (before release of the National Broadband Plan).
 - Section 54.724 60-day period has long passed.
 - USAC is billing NetworkIP based on the (erroneous) audit results.
 - NetworkIP’s concurrently filed Petition for Stay was not acted on; Bureau intended to act quickly on the appeal.
 - Contribution issues are piling up in multiple appeals. Without guidance, USAC is continuing to apply wrong standards in audits, further increasing backlog. Also, the industry needs a level playing field on which to operate.
 - Prepaid card reporting instructions
 - Reseller revenue reporting